P.7: 255-92

G. R. S. IX-5]

Previous references.
LR 1-70.
" 26-73
" 44-79

1888-89

192 .
(L.R)

File No. 61-88
Serial Nos. 1 2

Later references.
LR 213-91.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 2

Part B for October 1888

SUBJECT.

Liability of Occupants of lands for the due preservation of Sandal trees standing thereon —.

To.

1 The Commissioner, Nagar Division.
2. Deputy Commissioners of Districts.
3. Deputy Conservator of Forests, Ashtagram division.
4. Assistant Conservators of Mandyadurg and Nagar Divisions.

No. 5037-487 Dt 29/10/1888.
F. 152

Inviting Notification that all individuals occupying or holding lands will henceforth be held responsible for the due preservation of Sandal trees growing on such lands. —

WD 2238—GPB—20,000—11-6-90

(General Serial No. 29.)

1888.

From

The Deputy Commissioner
Mysore District

To

The Chief Secretary to the Dewan
of Mysore.

Bangalore

Dated 27th August 1888.

Despatched

Received

Enclosures No. 2

General No. 374

Sir,

I have the honor to submit herewith copy of order passed by me on review of Calendars in Criminal Case No. 61, of 1887, on the file of the Amildar, and 2nd class Magistrate of Koonoor, and if the Government is pleased to approve of the views expressed therein by me, I propose issuing instructions on the subject to Subordinate Revenue officers for information and guidance.

Copy of the Circular I propose to issue is

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Dk. No. 6 of 1888-89

6/9

Submit

I should furnish the Govt with the reasons why I do not think it necessary to issue the Circular now proposed by the Govt of India

Calendars are returned

Draft submitted

The Circ^r is a Rev. Circ^r for guidance of Rev. Subord^s & hence perhaps not strictly Rev. Circ^r desire to get our approval—

dated 6th instant

Tell him that the proposed Circ^r may be slightly modified so as to emphasize the following points.

1st All Proc^s held under Notn. of 16 Aug^t 1870 are Rev. proceedings & the awards therein made are recoverable as Rev. demands.

2nd The report & returns under the above Notn. should be restricted as necessary to Cases in which there is no proof of individual guilt. The Rule should rather be that when the case is of an aggravated kind

Submitted for approval. 2.

I have the honor to be,
Sir,
Your most obedient Servant,

D Mandlik

Deputy Commissioner
Mysore District

Compd
Records.
MM.

X deserving of Criminal punishment & when there is proper Evidence of individual guilt, the guilty part may be Criminally prosecuted. So that ~~it is possible that a Case may~~ resort to Crim. prosecution Wd not be had much because there is proof. — There Wd be some cases in which it Wd. be desirable not to resort to Crim. Courts, though proof might be sufficient for a Conviction & accompanying may be proceeded against under the Rev. Rules for ~~wrongful~~ ~~taking away~~ not taking care of a Sandal tree & the person actually Cutting it down Criminally prosecuted for mischief or Theft. ‡

‡ a Case Criminally prosecuted. Pray see as a matter of course Wd. be avoided

Point of all Cases?

11/9/85

In the Court of the District Magte
Guntoor

This 6th day of August 1888

Read
(1) Calendar in Criminal case no 61 of 1887 on the file of the Amildar and 3rd Class Magistrate of Ammuru Government Vs Pedi Venkatayya
(2) The record of the case.

Order

This is an example of the practice which seems to prevail in the Guntoor District of questions and cases arising under the Chief Commissioner's Notification No 186 dated 16th August 1870 being taken up by Amildars on the Criminal side -

2. This is a mistake - as pointed out in the Chief Commissioner's subsequent Proceedings No 5177-88 & 647 dated 7th January 1880, printed at page 201 of the Revenue Manual of 1886, it is only in cases in which the injury to the trees can be clearly proved against occupants of the land that these can be criminally prosecuted under the

Indian Penal code - Where the damage is less than 50 Rs it will be a 3rd Class Magistrate's case. (section 426 Indian Penal code) - Where it will be a superior Magistrate's case (sections 427 or 435 Indian Penal code being applicable according to the circumstances) - Where such proof is wanting the case will have to be disposed of under the Proceedings of 1870 and the action of Amildars will be entirely on the Revenue side -

3 - Whenever injury to sandal trees is brought to notice, a local inquiry should be held by a competent officer whose duty it shall be to assemble a panchayet and record a statement as to the number and other particulars of sandal trees destroyed and of sandal trees left and of all other circumstances apparent on the spot affording materials for determining the manner in which and means by which the mischief was caused and the extent of the damage. The Amildar should

3

take the record of such inquiry into consideration and cause criminal proceedings to be instituted if the circumstances justify it in the court of the Magistrate having jurisdiction or submit a report on the Revenue side to the Deputy Commr. (ie the French Rocks Sub Division to the Sub Division officer) giving his opinion in the matter and his estimate of the value of the damage caused. The Forest Department will be duly consulted in ascertaining the value of the damages. The Deputy Commr. (ie the French Rocks Sub Division, the Sub Division officer), will thereupon make an award which shall be recovered as a revenue demand in the manner enjoined in the Orders of 1870 and 1880 already quoted.

4. A Circular shall be issued in this sense.

(Sd) J. Miranda Row
Dy. Commr. and
District Magistrate
Dibrugarh

"Copy"
J. Miranda Row
Deputy Commissioner
Dibrugarh District

Compd
MM

6. (6)

Read- For Reference

Docket No. 541-258 of the 18th November 1879 from the Commissioner of the Nagar Division, forwarding copy of Correspondence with the Deputy Commissioner of Shimoga regarding the liability of occupants of lands for the due preservation of sandal trees standing thereon.

No. 5177-88 / F. 647, dated Bangalore, 7th January 1880.

Order thereon.- The Chief Commissioner approves of the instructions issued by the Commissioner. Neither the old Forest Rules, nor the revised, apply to the case. The Notification No. 186 of the 16th August 1870, which holds occupants of lands answerable for the preservation of sandal trees growing on them, should regulate its disposal. Where the injury to the trees can be clearly proved against the occupants of the land, they can be criminally prosecuted under the Indian Penal Code. Where such proof is wanting, the case may be disposed of under the Notification of 1870, under which the money value of the injury occasioned could be recovered from the land-holders as a

revenue

revenue demand.

7

Sd. C. Ranga Charlu,
Revenue Secretary.

To

The Commissioner, Nagar Division.
" Deputy Commissioners of Districts.
" Deputy Conservator of Forests, Sirsi Division,
" Asstt Conservators of Sundydroog and Nagar Divisions,
} for information.

Revenue-Forests.

No 186. The 16th August 1870.

Notice is hereby given that all individuals occupying or holding lands will henceforth be held responsible for the due preservation of all sandal trees growing on such lands. In the event of branches of sandal trees being cut or any injury being caused in any way to sandal trees on such lands, the occupants or holders of the land are hereby required at once to report such injury to the local authorities, and further in all such cases they will be expected to shew satisfactorily, that such injury was not caused by either their own act or carelessness, or by others at their instigations

instigation, or with their connivance. Should they fail in at once reporting such cases of injury, or in establishing their freedom from all blame in respect of the same, they will be held responsible wholly, or in conjunction with others, for all or any such damage done to the sandal trees on their lands.

2. All fines and payments of any kind adjudged under this Notification, for damages done to sandalwood trees, shall be recoverable as a revenue demand.

"By Order"
Sd. C. V. Wilkieson, Col., R.E.,
Offg. Secretary to the Chief Comm.r,
P. W. D.

9.

J (8)

4

Read:-

Letter from the Deputy Commissioner, Mysore District, No. 374 dated 27th August 1888, submitting Copy of an order passed by him on the review of Calendar in a Criminal case, and submitting for approval, a Circular proposed to be issued regarding the trials of Cases of damages done to Sandal trees.

Lr 61-88-2

Print in Extenso

Order. No 5029-47 dt 29 Oct 1888
Cir 152

The proposed Circular will be modified, so as to emphasize the following points:-

(1st) All proceedings held under Notification dated 6th August 1870, are Revenue proceedings, and the amounts of awards therein made are recoverable as Revenue demands.

(2ndly) The resort to action under the above notification may not be restricted necessarily to cases in which there is no proof of individual guilt.

The rule may be stated thus:-

Aggravated cases with proper and adequate evidence of individual guilt, deserving of Criminal punishment, may be criminally prosecuted. Resort to Criminal prosecution may not be had merely because there is proof. There may be cases in which it may not be desirable to resort to Criminal Courts, though proof

(9)

Proceedings of the Dewan to His Highness the Maharaja of Mysore, (Judicial),—dated 29th October 1888.

READ THE FOLLOWING PAPERS:—

From the Deputy Commissioner, Mysore District, To the Chief Secretary to the Dewan of Mysore, No. 374, dated 27th August 1888.

I have the honor to submit herewith copy of order dated 6th instant passed by me on review of calendar in criminal case No. 61 of 1887 on the file of the Amildar and 3rd class Magistrate of Hunsur, and if the Government is pleased to approve of the views expressed therein by me, I propose issuing instructions on the subject to subordinate Revenue officers for information and guidance. Copy of the Circular I propose to issue is submitted for approval.

IN THE COURT OF THE DISTRICT MAGISTRATE, MYSORE.

This 6th day of August 1888.

READ—

(1) Calendar in Criminal Case No. 61 of 1887 on the file of the Amildar and 3rd class Magistrate of Hunsur, Government *Vs.* Putvenkataiya; and

(2) the record of the case.

Order.—This is an example of the practice which seems to prevail in the Mysore District of questions and cases arising under the Chief Commissioner's Notification No. 186, dated 16th August 1870, being taken up by Amildars on the Criminal side.

2. This is a mistake. As pointed out in the Chief Commissioner's subsequent Proceedings No. 5177-88—J 647, dated 7th January 1880, printed at page 201 of the Revenue Manual of 1886, it is only in cases in which the injury to the trees can be clearly proved against occupants of the land that these can be criminally prosecuted under the Indian Penal Code. Where the damage is less than Rs. 50, it will be a 3rd class Magistrate's case (Section 426, Indian Penal Code). Where more, it will be a superior Magistrate's case (Sections 427 or 435, Indian Penal Code, being applicable according to the circumstances). Where such proof is wanting, the case will have to be disposed of under the Proceedings of 1870 and the action of Amildars will be entirely on the Revenue side.

3. Whenever injury to sandal trees is brought to notice, a local inquiry should be held by a competent officer, whose duty it shall be to assemble a panchayat and record a mahazar as to the number and other particulars of sandal trees destroyed and of sandal trees left and of all other circumstances apparent on the spot affording materials for determining the manner in which and means by which the mischief was caused and the extent of the damage. The Amildar should take the record of such inquiry into consideration and cause criminal proceedings to be instituted, if the circumstances justify it, in the court of the Magistrate having jurisdiction or submit a report on the Revenue side to the Deputy Commissioner (in the French Rocks Sub-Division, to the Sub-Divison officer), giving his opinion in the matter and his estimate of the value of the damage caused. The Forest Department will be duly consulted in assessing the value of the damages. The Deputy Commissioner (in the French Rocks Sub-Division, the Sub-Division officer) will thereupon make an award which shall be recovered as a revenue demand in the manner enjoined in the orders of 1870 and 1880 already quoted.

4. A Circular shall be issued in this sense.

No. 5039-47—CIR. 152, DATED 29TH OCTOBER 1888.

ORDER.—The proposed Circular will be modified so as to emphasize the following points:—

1st. All proceedings held under Notification, dated 16th August 1870, are Revenue proceedings, and the amounts of awards therein made are recoverable as Revenue demands.

2nd. The resort to action under the above Notification may not be restricted necessarily to cases in which there is no proof of individual guilt.

The rule may be stated thus :—

Aggravated cases with proper and adequate evidence of individual guilt, deserving of criminal punishment, may be criminally prosecuted. Resort to criminal prosecution may not be had merely because there is proof. There may be cases in which it may not be desirable to resort to criminal courts, though proof sufficient for a conviction may exist ; again, the occupants may be proceeded against under the Revenue rules for not taking care of a sandal tree and the person actually cutting it down may be criminally prosecuted for mischief or theft. A criminal prosecution as a matter of course will be avoided.

R. VIJAYINDRA RAO,
Chief Secretary.

To—The Deputy Commissioner, Mysore District.
The Deputy Commissioners of other Districts.
The Registrar of the Chief Court.

1888.

GOVERNMENT OF MYSORE.

JUDICIAL.

PROCEEDINGS.

Dated 29th October 1888.

No. 5039-47.
Cir.152.

Instructions regarding the trial of cases of damages done to Sandal trees.

Mysore Government Press, Bangalore.—5-12-88.—150